

AMENDED IN SENATE MARCH 8, 2010

**SENATE BILL**

**No. 968**

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**Introduced by Senator Negrete McLeod  
(Coauthors: Senators Correa, DeSaulnier, and Oropeza)**

February 5, 2010

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An act to amend Sections 1267, 1268, ~~1269~~, 1271, 1271.5, and 1272 of, *and to repeal and add Section 1269 of*, the Unemployment Insurance Code, relating to unemployment insurance, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 968, as amended, Negrete McLeod. Unemployment insurance: retraining benefits.

Existing law provides for unemployment compensation benefits to eligible persons who are unemployed through no fault of their own. Existing law, until January 1, 2015, provides for retraining benefits to eligible individuals pursuant to the federal Trade Act of 1974, as amended by the federal Trade Act of 2002. Existing law authorizes an unemployed individual who files a claim for unemployment compensation benefits or extended duration benefits, or an application for federal-state extended benefits or any federally funded unemployment compensation benefits, to apply to the Employment Development Department for benefits during a period of training or retraining.

This bill would, instead, specify that an unemployed individual shall be eligible for those training and retraining benefits, regardless of whether the individual applies to the department for a determination of potential eligibility.

Existing law requires that a determination of potential eligibility for specified training and retraining benefits be issued to an unemployed individual if the Director of Employment Development finds that specified conditions apply.

~~This bill would remove the requirement that the director make a specified finding for a determination of eligibility for those training and retraining benefits to be issued to an unemployed individual if those conditions apply.~~ *delete those provisions, and instead specify that an unemployed individual who is able to work is eligible to receive training and retraining benefits if he or she certifies on the claim form for benefits that he or she is enrolled in a training program designed to increase or improve his or her job skills and employability.*

Existing law specifies that any unemployed individual receiving certain unemployment compensation benefits, who applies for a determination of potential eligibility for those benefits no later than the 16th week of his or her receiving those benefits, and is determined to be eligible for those benefits, is entitled to a training extension on his or her unemployment claim, if necessary, to complete approved training.

This bill would eliminate that requirement that an individual apply for a determination of potential eligibility no later than the 16th week of his or her receiving those benefits, and would instead require that any unemployed individual receiving unemployment compensation benefits be entitled to a training extension on his or her unemployment compensation claim, if necessary, to complete approved training.

Existing law requires the department to inform all individuals who claim unemployment insurance compensation benefits in this state of the benefits potentially available, as provided.

This bill would require the department to also publicize and promote the benefits available under those provisions on its Internet Web site.

Existing law specifies that, for purposes of provisions governing eligibility for work with respect to any week an individual is eligible for unemployment benefits, an unemployed individual who is able to work is eligible to receive benefits with respect to any week during a period of training or retraining, if the director finds that specified conditions apply.

This bill would remove that requirement that the director make a specified finding for an unemployed individual who is able to work to be eligible to receive those benefits, if those specified conditions apply.

Because the bill would make various changes to existing eligibility requirements for training and retraining benefits, which would result

in additional amounts being payable from the Unemployment Fund, the bill would make an appropriation.

Vote: majority. Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1267 of the Unemployment Insurance  
2 Code is amended to read:

3 1267. Notwithstanding any other provision of this division,  
4 with respect to an unemployed individual otherwise eligible for  
5 benefits, those benefits shall not be denied to an individual for any  
6 week because he or she is in approved training or retraining, or  
7 because of the application to any such week in training or retraining  
8 of any law of this state relating to availability for work, active  
9 search for work, refusal to accept work, or for leaving his or her  
10 most recent work, if continuing the most recent work would require  
11 the individual to terminate his or her training or retraining course  
12 of instruction. The individual is considered to be in training or  
13 retraining during regularly scheduled vacation or recess periods,  
14 such as Christmas and Thanksgiving holidays, or semester breaks,  
15 but not during a summer vacation period. As used in this article,  
16 “individual” includes an exhaustee as defined in Section 3503, and  
17 any individual claiming federal-state extended benefits under Part  
18 4 (commencing with Section 4001), and anyone receiving federally  
19 funded unemployment compensation benefits.

20 SEC. 2. Section 1268 of the Unemployment Insurance Code  
21 is amended to read:

22 1268. An unemployed individual who files a claim for  
23 unemployment compensation benefits or extended duration  
24 benefits, or an application for federal-state extended benefits or  
25 any federally funded unemployment compensation benefits shall  
26 be eligible for benefits during a period of training or retraining.

27 ~~SEC. 3. Section 1269 of the Unemployment Insurance Code~~  
28 ~~is amended to read:~~

29 ~~1269. (a) A determination of eligibility for benefits under this~~  
30 ~~article shall be issued to an unemployed individual if any of the~~  
31 ~~following apply:~~

32 ~~(1) The training is authorized by the federal Workforce~~  
33 ~~Investment Act or by the Employment Training Panel established~~

1 pursuant to Chapter 3.5 (commencing with Section 10200) of Part  
2 1 of Division 3.

3 (2) ~~The training is authorized by the federal Trade Act of 1974,~~  
4 ~~(19 U.S.C. Sec. 2101 et seq.), as amended by the federal Trade~~  
5 ~~Act of 2002 (Public Law 107-210), pursuant to a certified petition.~~

6 (3) ~~The individual is a participant in the California Work~~  
7 ~~Opportunity and Responsibility to Kids (CalWORKs) program~~  
8 ~~pursuant to Article 3.2 (commencing with Section 11320) or Article~~  
9 ~~3.3 (commencing with Section 11330) of Chapter 2 of Part 3 of~~  
10 ~~Division 9 of the Welfare and Institutions Code, and has entered~~  
11 ~~into a contract with the county welfare department to participate~~  
12 ~~in an education or training program.~~

13 (b) ~~In addition to the requirements of subdivision (a), that all~~  
14 ~~of the following apply:~~

15 (1) ~~The individual has been unemployed for four or more~~  
16 ~~continuous weeks, or the individual is unemployed and unlikely~~  
17 ~~to return to his or her most recent workplace because work~~  
18 ~~opportunities in the individual's job classification are impaired by~~  
19 ~~a plant closure or a substantial reduction in employment at the~~  
20 ~~individual's most recent workplace, by advancement in~~  
21 ~~technological improvements, by the effects of automation and~~  
22 ~~relocation in the economy, or because of a mental or physical~~  
23 ~~disability which prohibits the individual from utilizing existing~~  
24 ~~occupational skills.~~

25 (2) ~~One of the substantial causes of the individual's~~  
26 ~~unemployment is a lack of sufficient current demand in the~~  
27 ~~individual's labor market area for the occupational skills for which~~  
28 ~~the individual is fitted by training and experience or current~~  
29 ~~physical or mental capacity and that the lack of employment~~  
30 ~~opportunities is expected to continue for an extended period of~~  
31 ~~time, or, if the individual's occupation is one for which there is a~~  
32 ~~seasonal variation in demand in the labor market and the individual~~  
33 ~~has no other skill for which there is current demand.~~

34 (3) ~~The training or retraining course of instruction relates to an~~  
35 ~~occupation or skill for which there are, or are expected to be in the~~  
36 ~~immediate future, reasonable employment opportunities in the~~  
37 ~~labor market area in this state in which the individual intends to~~  
38 ~~seek work and there is not a substantial surplus of workers with~~  
39 ~~requisite skills in the occupation in that area.~~

1     ~~(4) If the individual is a journey level union member, the training~~  
2     ~~or retraining course of instruction is specific job-related training~~  
3     ~~necessary due to changes in technology, or necessary to retain~~  
4     ~~employment or to become more competitive in obtaining~~  
5     ~~employment.~~

6     ~~(5) The training or retraining course of instruction is one~~  
7     ~~approved by the director and can be completed within one year.~~

8     ~~(6) The training or retraining course is a full-time course~~  
9     ~~prescribed for the primary purpose of training the applicant in~~  
10    ~~skills that will allow him or her to obtain immediate employment~~  
11    ~~in a demand occupation and is not primarily intended to meet the~~  
12    ~~requirements of any degree from a college, community college,~~  
13    ~~or university.~~

14    ~~(7) The individual can be reasonably expected to complete the~~  
15    ~~training or retraining successfully.~~

16    ~~(8) The beginning date of training is more than three years after~~  
17    ~~the beginning date of training last approved for the individual~~  
18    ~~under this subdivision.~~

19    ~~SEC. 3. Section 1269 of the Unemployment Insurance Code is~~  
20    ~~repealed.~~

21    ~~1269. A determination of potential eligibility for benefits under~~  
22    ~~this article shall be issued to an unemployed individual if the~~  
23    ~~director finds that any of the following apply:~~

24    ~~(a) The training is authorized by the federal Workforce~~  
25    ~~Investment Act or by the Employment Training Panel established~~  
26    ~~pursuant to Chapter 3.5 (commencing with Section 10200) of Part~~  
27    ~~1 of Division 3.~~

28    ~~(b) The training is authorized by the federal Trade Act of 1974,~~  
29    ~~(19 U.S.C. Sec. 2101 et seq.), as amended by the federal Trade~~  
30    ~~Act of 2002 (Public Law 107-210), pursuant to a certified petition.~~

31    ~~(c) The individual is a participant in the California Work~~  
32    ~~Opportunity and Responsibility to Kids (CalWORKs) program~~  
33    ~~pursuant to Article 3.2 (commencing with Section 11320) or Article~~  
34    ~~3.3 (commencing with Section 11330) of Chapter 2 of Part 3 of~~  
35    ~~Division 9 of the Welfare and Institutions Code, and has entered~~  
36    ~~into a contract with the county welfare department to participate~~  
37    ~~in an education or training program.~~

38    ~~(d) That all of the following apply:~~

39    ~~(1) The individual has been unemployed for four or more~~  
40    ~~continuous weeks, or the individual is unemployed and unlikely~~

1 to return to his or her most recent workplace because work  
2 opportunities in the individual's job classification are impaired by  
3 a plant closure or a substantial reduction in employment at the  
4 individual's most recent workplace, by advancement in  
5 technological improvements, by the effects of automation and  
6 relocation in the economy, or because of a mental or physical  
7 disability which prohibits the individual from utilizing existing  
8 occupational skills.

9 (2) One of the substantial causes of the individual's  
10 unemployment is a lack of sufficient current demand in the  
11 individual's labor market area for the occupational skills for which  
12 the individual is fitted by training and experience or current  
13 physical or mental capacity and that the lack of employment  
14 opportunities is expected to continue for an extended period of  
15 time, or, if the individual's occupation is one for which there is a  
16 seasonal variation in demand in the labor market and the individual  
17 has no other skill for which there is current demand.

18 (3) The training or retraining course of instruction relates to an  
19 occupation or skill for which there are, or are expected to be in the  
20 immediate future, reasonable employment opportunities in the  
21 labor market area in this state in which the individual intends to  
22 seek work and there is not a substantial surplus of workers with  
23 requisite skills in the occupation in that area.

24 (4) If the individual is a journey level union member, the training  
25 or retraining course of instruction is specific job-related training  
26 necessary due to changes in technology, or necessary to retain  
27 employment or to become more competitive in obtaining  
28 employment.

29 (5) The training or retraining course of instruction is one  
30 approved by the director and can be completed within one year.

31 (6) The training or retraining course is a full-time course  
32 prescribed for the primary purpose of training the applicant in  
33 skills that will allow him or her to obtain immediate employment  
34 in a demand occupation and is not primarily intended to meet the  
35 requirements of any degree from a college, community college,  
36 or university.

37 (7) The individual can be reasonably expected to complete the  
38 training or retraining successfully.

1     ~~(8) The beginning date of training is more than three years after~~  
2     ~~the beginning date of training last approved for the individual~~  
3     ~~under this subdivision.~~

4     *SEC. 4. Section 1269 is added to the Unemployment Insurance*  
5     *Code, to read:*

6     *1269. Notwithstanding subdivision (c) of Section 1253, an*  
7     *unemployed individual who is able to work is eligible to receive*  
8     *benefits under this article if he or she certifies on the claim form*  
9     *for benefits that he or she is enrolled in a training program*  
10    *designed to increase or improve his or her job skills and*  
11    *employability.*

12    ~~SEC. 4.~~

13    *SEC. 5. Section 1271 of the Unemployment Insurance Code*  
14    *is amended to read:*

15    1271. (a) Any unemployed individual receiving unemployment  
16    compensation benefits payable under this division shall be entitled  
17    to a training extension on his or her unemployment compensation  
18    claim, if necessary, to complete approved training.

19    (b) The training extension shall provide the claimant with a  
20    maximum of 52 times the weekly benefit amount, which shall  
21    include the maximum benefit award on the parent unemployment  
22    compensation claim.

23    (c) The parent unemployment compensation claim shall be the  
24    unemployment compensation claim in existence at the time the  
25    claimant is determined eligible for benefits pursuant to subdivision  
26    (a).

27    (d) Benefits payable under this section are subject to the  
28    following limitations:

29    (1) The individual shall remain eligible for benefits under this  
30    article for all weeks potentially payable under this section.

31    (2) The individual shall file any unemployment compensation  
32    claim to which he or she becomes entitled under state or federal  
33    law, and shall draw any unemployment compensation benefits on  
34    that claim until it has expired or has been exhausted, in order to  
35    maintain his or her eligibility under this article.

36    (3) To the extent permitted by federal law, benefits payable  
37    under any federal unemployment compensation law shall be  
38    included as benefits payable under this section.

1     ~~SEC. 5.~~

2     *SEC. 6.* Section 1271.5 of the Unemployment Insurance Code  
3 is amended to read:

4     1271.5. (a) The department shall inform all individuals who  
5 claim unemployment compensation benefits in this state of the  
6 benefits available under this article and Section 1271. The  
7 department may convey this information verbally or in written  
8 form. If in written form, the department may utilize publications  
9 or handbooks that inform individuals of their rights and duties in  
10 regard to unemployment compensation benefits. The department  
11 shall also publicize and promote the benefits available under this  
12 article on its Internet Web site. These publications, issued by the  
13 department pursuant to authorized regulations, in conjunction with  
14 the publicizing and promoting of benefits on its Internet Web site,  
15 may be used to satisfy the requirements of this section.

16     (b) Benefits paid under Section 1271 shall be charged to  
17 individual employer reserve accounts, consistent with the  
18 provisions of this code.

19     ~~SEC. 6.~~

20     *SEC. 7.* Section 1272 of the Unemployment Insurance Code  
21 is amended to read:

22     1272. Notwithstanding subdivision (c) of Section 1253, an  
23 unemployed individual who is able to work is eligible to receive  
24 benefits under this article with respect to any week during a period  
25 of training or retraining only if both of the following apply:

26     (a) He or she has been determined potentially eligible under  
27 Section 1269 or 1271.

28     (b) He or she submits with each claim a written certification  
29 executed by a responsible person connected with the training or  
30 retraining program certifying that he or she is enrolled in and  
31 satisfactorily pursuing the training or retraining course of  
32 instruction.